

## **REMARKS/ARGUMENT**

### **Description of amendments**

Claims 20, 21, 23, 25, 27, 29, 30, 36, 37, 39, 40, 44, 46, and 56 are now pending and under examination.

Applicant has amended the withdrawn claims to ensure that they meet the PTO's requirements regarding formality, so that the Examiner does not need to conduct an extensive examination of the withdrawn claims when they are rejoined due to the allowance of independent claims 20 and 44.

### **Interview summary**

Applicant's counsel greatly appreciates the courtesy extended by Examiner Binda during the course of an interview conducted on September 22, 2004.

In the interview, Examiner Binda and Applicant's counsel discussed the rejections under 35 U.S.C. §§101, 102, and 103, as well as the double patenting rejection.

### **New drawing sheets**

In accordance with the Examiner's request, Applicant hereby provides three formal drawing sheets showing Figures 1, 2, 3, 3a, and 3b. The three formal drawing sheets have incorporated the changes made to the Figures so far. Additionally, Figures 3 and 3a appear on the same drawing sheet; now Figures 3a and 3b appear on the same drawing sheet.

### **Objection to the claims**

According to the Office Action, claim 44 is substantially duplicate of claim 20. Applicant respectfully disagrees, because claim 44 does not recite certain languages of claim 20, such as "shaft ends fastened against rotation in the universal double joint," "these ends

being held for movement in a housing,” and “a ball...is mounted for rotation about a center point of the ball.”

Rejection under 35 U.S.C. §101

All claims under examination were rejected under 35 U.S.C. §101 as lacking patentable utility. As discussed in the interview, as set forth by Justice Story in the *Lowell v. Lewis* case, an invention’s utility does not depend on whether it is more desirable than existing art. See Donald S. Chisum, *Chisum on Patents* §4.02[1], at 4-3 (2004) and cases cited therein. Accordingly, the claims do not lack patentable utility.

Rejections under 35 U.S.C. §102

Claims 20, 21, 23, 36, 40, 44, and 46 were rejected under 35 U.S.C. §102(b) as being anticipated by Helmke (CA 604,536). As discussed in the interview, Helmke does not disclose at least one limitation of the rejected claims: a ball that is slidingly movable in the direction of the shaft axis of the other shaft end. Accordingly, claims 20, 21, 23, 36, 40, 44, and 46 are not anticipated by Helmke.

Rejection under 35 U.S.C. §103(a)

The validity of the rejection under 35 U.S.C. §103(a) depends on the validity of the rejection under 35 U.S.C. §102. Because the rejection under 35 U.S.C. §102 is invalid as discussed above, the rejection under 35 U.S.C. §103(a) is also invalid.

Double patenting rejection

As discussed in the interview, Applicant clarifies that he did not mean the claimed invention and US 6,692,363 are similar in terms of patentability. He only meant that they are similar in terms of utility. Therefore, Applicant respectfully requests withdrawal of this rejection.

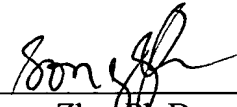
Application No. 09/600,593  
Reply dated October 8, 2004  
Response to Office Action dated June 24, 2004

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

A Request to Reset Period for Reply Due to Late Receipt of Notification is being filed herewith. In light of the discrepancy between the date on the Office Action and the date the action was actually mailed, it is believed that no extension fee is required. However, the Commissioner is hereby authorized to charge any requisite fee to Deposit Account No. 05-1323 (CAM #037272.49027US).

October 8, 2004

Respectfully submitted,



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